

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 CHRISTINA THOMAS
Deputy Attorney General
4 State Bar No. 171168
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2557
6 Facsimile: (213) 897-2804
Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No.

2011-969

13 **JENNIFER ELLEN HALL**
14 **aka JENNIFER ELLEN MASCHKE**
15 **aka JENNIFER ELLEN PHILLIPS**
911 Madalyn
Tulare, CA 93274

A C C U S A T I O N

16 Registered Nurse License No. 622138

Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs (Board).

22 2. On or about July 18, 2003, the Board issued Registered Nurse License No. 622138 to
23 Jennifer Ellen Hall aka Jennifer Ellen Maschke aka Jennifer Ellen Phillips (Respondent). The
24 Registered Nurse License was in full force and effect at all times relevant to the charges brought
25 herein and will expire on October 31, 2012, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 118, subdivision (b), provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 2750 provides that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

....

"(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it. . . ."

7. Section 2762 states, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

....

1 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any
2 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this
3 section."

4 8. Section 2764 provides that the expiration of a license shall not deprive the Board of
5 jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision
6 imposing discipline on the license. Under section 2811, subdivision (b), the Board may renew an
7 expired license at any time within eight (8) years after the expiration.

8 REGULATORY PROVISIONS

9 9. California Code of Regulations, title 16, section 1442, states:

10 "As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from
11 the standard of care which, under similar circumstances, would have ordinarily been exercised by
12 a competent registered nurse. Such an extreme departure means the repeated failure to provide
13 nursing care as required or failure to provide care or to exercise ordinary precaution in a single
14 situation which the nurse knew, or should have known, could have jeopardized the client's health
15 or life."

16 COST RECOVERY

17 10. Section 125.3 provides, in pertinent part, that the Board may request the
18 administrative law judge to direct a licentiate found to have committed a violation or violations of
19 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
20 enforcement of the case.

21 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

22 11. Dilaudid is a trade name for Hydromorphone, an Opium derivative, which is
23 classified as a Schedule II Controlled Substance pursuant to Health and Safety Code section
24 11055, subdivision (b)(1)(k), and is a dangerous drug pursuant to section 4022.

25 FIRST CAUSE FOR DISCIPLINE

26 (False Records)

27 12. Respondent is subject to disciplinary action under sections 2761, subdivision (a), and
28 section 2762, subdivision (e), on the grounds of unprofessional conduct, in that on or about

1 March 24, 2009, through on or about March 25, 2009, during her overnight shift, while on duty as
2 a registered nurse at Mercy Hospital, Bakersfield, California (Mercy Hospital), Respondent
3 falsified, or made grossly incorrect, grossly inconsistent, or unintelligible entries in hospital,
4 patient, or other records pertaining to Dilaudid, a controlled substance and dangerous drug.

5 a. On or about March 25, 2009, Respondent was reported as being inattentive to her
6 duties and responsibilities, left the floor multiple times without reporting to the charge nurse,
7 failed to administer all of her morning medications, scheduled at 0600 hours, on March 25, 2009,
8 and failed to complete her scheduled morning dressing changes.

9 b. On or about March 25, 2009, two (2) physicians notified Mercy Hospital
10 administration that Respondent had fraudulently documented medication changes and forged
11 telephone prescriptions in patients' hospital records: Respondent wrote fraudulent orders for each
12 physician's patient.

13 c. On March 24, 2009, at 2010 hours, for Patient A, and at 2030 hours, for Patient B,
14 Respondent entered identical physician medication telephone orders of "Dilaudid 2mg IV every 2
15 hours as needed for pain."

16 i. For Patient A, Respondent changed a typed order on the patient's Medication
17 Administration Record (MAR) by crossing out the number 6 (for six hours) and replacing it with
18 a handwritten number "2," indicating that Dilaudid could be administered every two hours as
19 needed for pain instead of every 6 hours.

20 ii. For Patient B, without authorization she wrote orders discontinuing Morphine
21 Sulphate 5 milligrams intravenously every 4 hours as needed for pain.

22 d. Patient A and Patient B were interviewed and both denied being administered pain
23 medication by Respondent. (e.g. Patient A stated: "It would be nice to get my pain med every 2
24 hours." And Patient B stated: "I did not call for my pain medicine because I knew that I can only
25 get it every 6 hours and I didn't get more than 3 doses last night.")

26 ///

27 ///

28
SECRET
MAY 31 11:30

1 e. On behalf of Patient A, Respondent withdrew from the hospital's Pyxis¹ 2 milligrams
2 of Dilaudid, each, on March 24, 2009, at 2033 and 2223 hours, and on March 25, 2009, at 0013,
3 0300, 0508 and 0651 hours, for a total of 12 milligrams of Dilaudid. Respondent falsely
4 documented administration of each 2 milligram Dilaudid withdrawal on the patient's MAR.
5 Respondent falsified and made unintelligible entries on hospital records, and failed to administer
6 12 milligrams Dilaudid.

7 f. On behalf of Patient B, Respondent withdrew from the hospital's Pyxis 2 milligrams
8 of Dilaudid, each, on March 24, 2009, at 2113 and 2301 hours, and on March 25, 2009, at 0115,
9 0300 and 0600 hours, for a total of 10 milligrams of Dilaudid. Respondent falsely documented
10 administration of each 2 milligram Dilaudid withdrawal on the patient's MAR. Respondent
11 falsified and made unintelligible entries on hospital records, and failed to administer 10
12 milligrams Dilaudid.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Illegally Obtain / Possess Controlled Substances)**

15 13. Respondent is subject to disciplinary action under sections 2761, subdivision (a), and
16 section 2762, subdivision (a), on the grounds of unprofessional conduct, in that on or about
17 March 24 – 25, 2009, while on duty as a registered nurse at Mercy Hospital, Respondent obtained
18 or possessed or prescribed Dilaudid, a controlled substance and dangerous drug, without a valid
19 prescription. Complainant refers to and by this reference incorporates the allegations set forth
20 above in paragraph 12, subparagraphs a - f, inclusive, as though set forth fully.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Gross Negligence)**

23 14. Respondent is subject to disciplinary action under section 2761, subdivision (a), in
24 conjunction with California Code of Regulations, title 16, section 1442, on the grounds of
25 unprofessional conduct, in that on or about March 24 – 25, 2009, while on duty as a registered

26 ¹ Pyxis is a trade name for the automated single-unit dose medication dispensing system
27 that records information such as patient name, physician orders, date and time medication was
28 withdrawn, and the name of the licensed individual who withdrew and administered the
medication.

1 nurse at Mercy Hospital, Respondent demonstrated acts of gross negligence, extreme departures
2 from the standard of care which, under similar circumstances, would have ordinarily been
3 exercised by a competent registered nurse.

4 a. Respondent unlawfully and illegally prescribed and documented administration of
5 Dilaudid to two (2) of her assigned patients.

6 b. Respondent made unintelligible and false entries in the MAR of two patients.

7 c. Respondent failed to treat, medicate, and be available to fulfill her assigned duties to
8 care for her patients.

9 d. Respondent neglected to be a patient advocate.

10 Complainant refers to and by this reference incorporates the allegations set forth above in
11 paragraphs 12 - 13, inclusive, as though set forth fully.

12 **FOURTH CAUSE FOR DISCIPLINE**

13 **(Unprofessional Conduct)**

14 15. Respondent is subject to disciplinary action under section 2761, subdivisions (a) and /
15 or (d), in that on or about March 24 – 25, 2009, while on duty as a registered nurse at Mercy
16 Hospital, Respondent committed acts of unprofessional conduct and or acts that violated or
17 attempted to violate, directly or indirectly, any provision or term of the Nursing Practice Act or
18 regulations adopted pursuant to it. Complainant refers to and by this reference incorporates the
19 allegations set forth above in paragraphs 12 - 14, inclusive, as though set forth fully.

20 **PRAYER**

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
22 and that following the hearing, the Board of Registered Nursing issue a decision:

23 1. Revoking or suspending Registered Nurse License No. 622138, issued to Jennifer
24 Ellen Hall;

25 2. Ordering Jennifer Ellen Hall to pay the Board of Registered Nursing the reasonable
26 costs of the investigation and enforcement of this case, pursuant to section 125.3; and,

27 ///

28 ///

JD11 WVA 31 WAT-30

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. Taking such other and further action as deemed necessary and proper.

DATED:

June 8, 2011

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

LA2011600333
60627149.doc

RECEIVED
JUL 11 2011 11:30 AM
CLERK